



PUBLIC NOTICE

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WIRELINE COMPETITION BUREAU INITIATES PROCESS TO PUBLICLY RELEASE LIST OF PRICE CAP LEC WIRE CENTERS WITH NEARBY ALTERNATIVE FIBER PURSUANT TO *UNE TRANSPORT FORBEARANCE ORDER*

WC Docket No. 18-141

In this Public Notice, and pursuant to the *UNE Transport Forbearance Order*, the Wireline Competition Bureau (Bureau) proposes to publicly release the list of Common Language Location Identification (CLLI) codes for price cap incumbent local exchange carrier (LEC) wire centers that have alternative fiber within a half mile (nearby alternative fiber).¹ This list of CLLI codes is based on an analysis of highly confidential information submitted in response to the Commission's 2015 special access data collection (*2015 Collection*) which has been incorporated into the record of this proceeding.² Affected parties will have ten (10) business days from the date of release of this Notice to file objections.

The identification of wire centers with nearby alternative fiber will reveal anonymized information about the proximity of fiber networks derived from competitive fiber maps and other information that has been designated as highly confidential. Therefore, consistent with Commission rules,³ the relevant protective order issued in this proceeding,⁴ the Trade Secrets Act,⁵ and Commission precedent,⁶ the Bureau commences a process that would allow it to publicly release a list of price cap incumbent LEC wire centers with nearby fiber, as directed by the Commission in the *UNE Transport Forbearance Order*.

¹ *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. §160(c) to Accelerate Investment in Broadband and Next-Generation Networks et al.*, WC Docket 18-141, Memorandum Opinion and Order, FCC 19-66 at para. 59, n.195 (rel. July 12, 2019) (*UNE Transport Forbearance Order*).

² *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks*, WC Docket No. 18-141, Data Collection Protective Order, at 3 (WCB Apr. 16, 2019) (*Data Collection Protective Order*).

³ See 47 CFR §§ 0.457, 0.459, 0.461.

⁴ *Data Collection Protective Order*.

⁵ 18 U.S.C. § 1905.

⁶ See, e.g., *Wireline Competition Bureau Proposes to Publicly Release the Lists of Those Counties Where Lower Speed Business Data Services Will Be Deemed Competitive, Non-Competitive, or Grandfathered*, WC Docket Nos. 16-143,05-25; RM-10593, Public Notice, DA 17-404 (WCB Apr. 28, 2017); *The Wireless Telecommunications Bureau and the Wireline Competition Bureau Propose To Release Form 477 4G LTE Mobile Speed Data To Facilitate Implementation of Mobility Fund II Support*, WT Docket No. 17-80 WC Docket No. 10-90, WT Docket No. 10-208, WC Docket No. 11-10, Public Notice, 32 FCC Rcd 2042 (rel. March 29, 2017). See also *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-95, Report and Order, 13 FCC Rcd 24816, 24853, para. 63 (1998) (Commission will not disclose confidential information in an order without permitting party opportunity to seek review).

The Bureau incorporated the *2015 Collection* into this proceeding because it is “the most comprehensive source of data for business data services and, as such, will significantly enhance the Commission’s ability to analyze competitive facilities deployment for purposes of evaluating the USTelecom Forbearance Petition.”⁷ The Bureau has previously recognized that much of the *2015 Collection* is competitively sensitive and not available to the public.⁸ The *UNE Transport Forbearance Order* describes how the existence of alternative fiber within a half mile of an incumbent LEC wire center demonstrates actual or potential competitive alternatives in that wire center.⁹ While publicly designating a wire center as having nearby alternative fiber would not directly release any confidential location data to the public, it could, in at least some instances, allow competitors to determine, in combination with their own knowledge, information about the general location of certain fiber routes. This information has been designated as competitively sensitive and, in accordance with established Commission procedures, we are therefore giving affected providers notice and an opportunity to object before we publicly release it.

The deadline for filing such objections is July 29, 2019. Parties objecting must explain why publicly identifying whether a price cap incumbent LEC wire center has nearby alternative fiber will reveal information they have not already made available to the public and will harm them competitively, including a description of the extent of that harm.¹⁰

Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, affected parties may file any objections using the Commission’s Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). An additional courtesy copy may also be sent to SpecialAccess@fcc.gov.

- Electronic Filers: Objections may be filed electronically using the Internet by accessing ECFS: <http://apps.fcc.gov/ecfs>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities

⁷ *Data Collection Protective Order* at 2-3.

⁸ See *Data Collection Protective Order*, 29 FCC Rcd at 11658-59, para. 4.

⁹ *UNE Transport Forbearance Order* at paras. 52-59.

¹⁰ In the case of any objection that is denied, the provider may file an application for review by the Commission in accordance with section 0.459(g) of the Commission’s rules. 47 CFR § 0.459(g). Materials will be accorded confidential treatment until the Commission acts on any timely applications for review and, if denied, until a court acts on any timely motion for stay of an order by the full Commission denying confidential treatment. *Id.*

(Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (tty).

This action is taken pursuant to sections 4(i), 5, 201-205, 211, 215, 218, 219, 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155, 201-205, 211, 215, 218, 219, 303(r), and 332, Section 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and authority delegated under section 0.291 of the Commission's rules, 47 CFR § 0.291.

For further information, please contact Gregory Capobianco, Competition Policy Division, Wireline Competition Bureau, at (202) 418-0808 or via email at Gregory.Capobianco@fcc.gov.

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